

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff Honorable Matthew F. Leitman

-vs-

SCOTT JAMES ROCKY

Case No 2:25-mj-30276

Defendant

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MOTION AND BRIEF FOR REVOCATION OF DETENTION ORDER

NOW COMES Defendant SCOTT JAMES ROCKY, by his attorney, ARTHUR JAY WEISS, and respectfully moves this Honorable Court, pursuant to 18 USC 3145 (b), for Revocation of Detention Order, and in support thereof, says as follows:

1. That on or about May 1, 2025, the Defendant, JAMES SCOTT ROCKY, was arrested pursuant to a Criminal Complaint alleging receipt and distribution of child pornography, 18 U.S.C. 2252A(a)(2) and possession of child pornography, 18 U.S.C. 2252A(a)(5)(B) [ECF No 1 Pg ID 1; ECF 4 Pg ID 10] .

2. That on or about May 5, 2025, the Honorable Kimberly G.

Altman entered an Order of Detention [ECF 12 Pg ID 18].

3. That for purposes of our proffer, we respectfully assert:

- a. That Mr Scott Rocky is fifty-seven (57) years of age, having been born in Warren, Michigan and has resided in this community his entire life.
- b. That he graduated from Lincoln High School in Warren, Michigan and attended classes at Macomb Community College.
- c. That on or about December 1984, he enlisted in the National Guard and honorably served this country for approximately twenty (20) years, including two (2) deployments overseas.
- d. That he served as a TSA Officer for approximately seven (7) years.
- e. That he entered the Federal Law Enforcement Academy on or about 2008 and has been fully, duly and gainfully employed for approximately seventeen (17) years as a Special Customs Agent with the United States Customs and Border Patrol.
- f. That he has been married for approximately thirty-five (35) years with two adult children and two grandchildren. He is also the primary care giver for his wife.
- g. That for approximately ten (10) years, he has been a Free Mason/Knights Templar, which is one of the largest and oldest charitable organizations, providing assistance to food and clothing drives, working in soup kitchens and raising funds to secure wigs for children being treated for cancer.
- h. That he owns his residence in Center Line, Michigan.
- i. That a veteran and insightful Pretrial Services Officer recommended release with twenty (20) special conditions. Given Agent Rocky's exemplary life and background, we respectfully

assert the recommendations pertaining to mental health treatment and sex offender therapy are both reasonable and astute.

4. That in reviewing the Criminal Complaint [ECF No 1 Pg ID 1], it alleges child pornography was downloaded between April 17 and April 19, 2025 [¶¶ 10-11]. Cognizant the Complaint maintained the presence of “animated pornography” [¶ 17] and the government articulated during the Detention Hearing the presence of “anime” images; *query* whether cartoon drawings constitute proscribed “child pornography,” *see generally, Ashcroft v Free Speech Coalition*, 535 US 234, 245-254, 122 S Ct 1389, 152 L Ed 2d 403 (2002). While it further appears “peer to peer” software was present—which we acknowledge may constitute *passive* distribution—the Complaint does not allege *active* distribution.

5. That nor does the Complaint allege any law enforcement or government equipment was utilized, but rather, asserts his *personal* devices were employed. During the Detention Hearing on or about May 5, 2025, the government articulated certain “software applications” which purportedly can “delete or clean” devices was forensically detected; upon information and belief, this type of software may be purchased “off-the-shelf” at various retail establishments.

6. That in these types of situations, the ultimate burden resides with the government, *United States v Stone*, 608 F 3d 939, 945 (6th Cir 2010).

7. That in the main, the government's argument for detention appeared "canned" and "generic" as to any and all child pornography prosecutions, contrary to the dictates of the United States Supreme Court in *United States v Salerno*, 481 US 739, 748-751, 107 S Ct 2095, 95 L Ed 2d 677 (1987), which opined, *inter alia*, detention should be predicated upon facts and circumstances attendant to the *specific* individual.

8. That more specifically, we respectfully submit the government did not demonstrate "by clear and convincing evidence," 18 USC 3142 (g), the twenty (20) recommended conditions of release by Pretrial Services would not satisfy the requirements for release contained in the Bail Reform Act, 18 USC 3142 (c), (g) and (f).

9. That accordingly, the complained of Order of Detention [ECF 12 Pg Id 18] should be revoked, *see e g*, *United States v Lamar*, 600 F Supp 3d 714, 725 (ED Ky 2002).

WHEREFORE, the Defendant, SCOTT JAMES ROCKY, respectfully prays this Honorable Court Revoke the Order of Detention.

/s/ Arthur Jay Weiss

ARTHUR JAY WEISS (P 25225)

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Dated: May 7, 2025.

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CERTIFICATE OF SERVICE

ARTHUR JAY WEISS, counsel of record for SCOTT JAMES ROCKY, a Defendant in the above-entitled matter, hereby Certifies that on the 7th day of May 2025 he served all counsel of record and Pretrial Services with a copy of Motion and Brief for Revocation of Detention Order and Certificate of Service relative to the above-entitled matter by electronic means.

/s/ Arthur Jay Weiss
ARTHUR JAY WEISS